

Case 08-03423-ee Doc 184 Filed 08/26/09 Entered 08/26/09 16:28:49 Desc Main Document Page 1 of 3

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

In re:)
)
WAREHOUSE 86, LLC) CASE NO. 08-03423-EE
) Chapter 11
Debtor))
)

**ORDER APPROVING JOINT MOTION OF WAREHOUSE 86, LLC
AND SCK, INC. F/K/A S. C. KIOSKS, INC. FOR AUTHORITY TO DEPOSIT
INSURANCE PROCEEDS INTO THE REGISTRY OF THE COURT IN
CONTEMPLATION OF THE FILING OF A
COMPLAINT FOR DECLARATORY JUDGMENT
[Dkt. # 181]**

This matter came on for hearing on the *Joint Motion for Authority to Deposit Insurance Proceeds into the Registry of the Court in Contemplation of the Filing of a Complaint for Declaratory Judgment* (Dkt. # 181) (the “Joint Motion”). The Court considered the Joint Motion and finds and orders as follows:

1. On November 4, 2008, the Debtor filed its Voluntary Petition under Chapter 11 of the Title 11 United States Code.

2. Warehouse 86 was the owner of and the named insured in that certain commercial property insurance policy numbered 3A2-22-78-08, issued by Employers Mutual Casualty Company (“EMC”) with effective dates from April 15, 2007 to April 15, 2008 (the “Policy”). SCK was named as a loss payee under the Policy.

3. On or about February 5, 2008, the Debtor’s corporate offices and its primary warehouse and distribution center at its Southaven, Mississippi location (the “Location”) and personal property located therein were damaged by a tornado. On or about February 11, 2008, the Location and personal property located therein were damaged by a fire.

EXHIBIT

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4. The Movants received the following checks from EMC payable jointly to Debtor and to SC Kiosks, Inc., each of which checks has been endorsed by the payee or its agent:

Date	Payees	Check Number	Amount
07/23/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03305822	\$1,060,000.00
08/12/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03306059	\$979,882.35
08/12/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03306060	\$50,000.00
		Total	\$2,089,882.35

5. The total amount of the checks listed above is \$2,089,882.35 (the "Insurance Proceeds").

6. The Debtor anticipates filing within a short period of time a motion for authority to compromise and settle the claims against EMC under the Policy for the amount of the Insurance Proceeds (the "Motion to Compromise").

7. A dispute exists between the Debtor and SCK as to the right of each party to the Insurance Proceeds.

8. The Debtor and/or SCK anticipate filing a Complaint for Declaratory Judgment to ask the Court to determine the rights of each party to the Insurance Proceeds (the "Declaratory Judgment Action").

9. In the meantime, the Debtor and SCK have agreed to deposit the funds from the checks representing the Insurance Proceeds into the registry of the Court pending the resolution of the Motion to Compromise and the Declaratory Judgment Action, and further that the funds shall remain in the registry of the Court until entry of a final order regarding the disbursement of the Insurance Proceeds, and any accrued interest (net of expenses).

10. By the deposit of these funds into the registry of the Court, the Movants reserve all rights, claims, remedies, interests, defenses and objections.

Ed Pitts

From: cmechelpdesk@mssb.uscourts.gov
Sent: Wednesday, August 26, 2009 4:57 PM
To: Courtmail@mssb.uscourts.gov
Subject: 08-03423-ee Receipt Number and Filing Fee

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U.S. Bankruptcy Court

Southern District of Mississippi

Notice of Electronic Filing

The following transaction was received from Nations, Mitzie entered on 8/26/2009 at 4:57 PM CDT and filed on 8/26/2009

Case Name: Warehouse 86, LLC

Case Number: 08-03423-ee

Document Number:

Docket Text:

Receipt Number 131068, Fee Amount \$979,882.35 (RE: related document(s)[184] Order on Motion to Deposit Funds into Court Registry) (Nations, Mitzie)

The following document(s) are associated with this transaction:

08-03423-ee Notice will be electronically mailed to:

R. Michael Bolen

USTPRegion05.JA.ECF@usdoj.gov

John A. Crawford on behalf of Debtor In Possession Warehouse 86, LLC

jack.crawford@butlersnow.com, joyce.smith@butlersnow.com;ecf.notices@butlersnow.com

Heather Stamper Deaton on behalf of Creditor Mississippi State Tax Commission, Legal Division

hdeaton@mstc.state.ms.us

Gill Geldreich on behalf of Creditor Tennessee Dept of Revenue

agbankcal@ag.tn.gov, gill.geldreich@ag.tn.gov

Ronald H. McAlpin on behalf of U.S. Trustee R. Bolen

ronald.mcalpin@usdoj.gov

James A. McCullough on behalf of Creditor Overstock.com, Inc.
jmccullough@brunini.com

Richard A. Montague on behalf of Creditor Stuart Irby
rmontague@wellsmoore.com, inman@wellsmoore.com, little@wellsmoore.com

Stephen W. Rosenblatt on behalf of Accountant Paul Calhoun
Steve.Rosenblatt@butlersnow.com, onida.huhn@butlersnow.com; ecf.notices@butlersnow.com

Larry Spencer on behalf of Creditor Fifth Third Bank
lspencerlawyer@aol.com

Marcus M. Wilson on behalf of Creditor RadioShack Corporation and SC Kiosks, Inc.
mwilson@blswlaw.com, kp@pgrwlaw.com

08-03423-ee Notice will not be electronically mailed to:

Keith Martin Mack
2949 Los Robles Rd
Thousand Oaks, CA 91362-3320

Receivable Management Services
c/o Phyllis A. Hayes
307 International Circle, Ste 270
Hunt Valley, MD 21030

Ed Pitts

From: cmechelpdesk@mssb.uscourts.gov
Sent: Wednesday, August 26, 2009 4:58 PM
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U.S. Bankruptcy Court

Southern District of Mississippi

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Case Name: Warehouse 86, LLC

Case Number: 08-03423-ee

Document Number:

Docket Text:

Receipt Number 131069, Fee Amount \$50,000.00 (RE: related document(s)[184] Order on Motion to Deposit Funds into Court Registry) (Nations, Mitzie)

The following document(s) are associated with this transaction:

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Ed Pitts

From: cmechelpdesk@mssb.uscourts.gov
Sent: Wednesday, August 26, 2009 4:59 PM
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U.S. Bankruptcy Court

Southern District of Mississippi

Notice of Electronic Filing

The following transaction was received from Nations, Mitzie entered on 8/26/2009 at 4:59 PM CDT and filed on 8/26/2009

Case Name: Warehouse 86, LLC

Case Number: 08-03423-ee

Document Number:

Docket Text:

Receipt Number 131070, Fee Amount \$999,999.00 (RE: related document(s)[184] Order on Motion to Deposit Funds into Court Registry) (Nations, Mitzie)

The following document(s) are associated with this transaction:

08-03423-ee Notice will be electronically mailed to:

R. Michael Bolen
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jack.crawford@butlersnow.com, joyce.smith@butlersnow.com;ecf.notices@butlersnow.com

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Ed Pitts

From: cmechelpdesk@mssb.uscourts.gov
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Southern District of Mississippi

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Case Name: Warehouse 86, LLC

Case Number: 08-03423-ee

Document Number:

Docket Text:

Receipt Number 131071, Fee Amount \$60,001.00 (RE: related document(s)[184] Order on Motion to Deposit Funds into Court Registry) (Nations, Mitzie)

The following document(s) are associated with this transaction:

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